



**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**Monthly Enforcement Report**  
**for actions during February 2008**  
**DISTRIBUTED: March 26, 2008**

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*This report has been prepared to satisfy a statutory obligation DEP has to inform the public of certain enforcement resolutions. This report does not include summaries of the hundreds of compliance related activities occurring every month because it is impractical to capture a sampling of those activities that would be representative of that work. Please contact Peter Carney at (207) 287-4305 or [Peter.J.Carney@Maine.gov](mailto:Peter.J.Carney@Maine.gov) for additional information regarding the activities listed in this report.*

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The following cases were resolved to achieve compliance with the law; remediate environmental damage; restore natural resources to appropriate conditions; and impose civil penalties to deter similar actions in the future.

**Administrative Consent Agreements Approved by the Board of Environmental Protection and Department of the Attorney General (party followed by location of violation):**

*Air:*

**Alvin J. Coleman & Son, Inc., Augusta, Maine.** Alvin J. Coleman & Son, Inc. ("Coleman") violated the Department's *Major and Minor Source Air Emission License Regulations* by failing to obtain air emission licenses for five rock crushers. To resolve the violations, Coleman agreed to not operate either owned or leased rock crusher units within the State of Maine unless licensed in accordance with Department rules, and paid \$5,000.00 as a civil monetary penalty.

**Red Shield Environmental, LLC, Old Town, Maine.** Red Shield Environmental, LLC ("RSE") violated provisions of the *Maine Hazardous Waste, Septage, and Solid Waste Management Act*, and the Department's rules concerning *Discharge of Hazardous Matter: Removal and Written Reporting Procedures and Standards for Generators of Hazardous Waste*. RSE failed to make a proper hazardous waste determination, offered hazardous waste to a transporter not licensed to transport hazardous waste, offered hazardous waste for transport to a waste facility not authorized or licensed to handle hazardous waste, caused the discharge, *i.e.* disposal, of hazardous matter at a facility not authorized to do so, failed to immediately report the discharge, *i.e.* disposal, of hazardous matter to the Department of public safety, and failed to submit a written report of the prohibited discharge, *i.e.* disposal, of hazardous matter within thirty days of the discharge. The violations relate to ash generated by RSE that was delivered to Juniper Ridge Landfill in Old Town. After the ash was delivered to the landfill, RSE learned that analysis of samples taken from the ash showed a TCLP lead result above regulatory thresholds. Following Department involvement, RSE submitted a revised operations manual to the Department, which included revisions relating to a sampling and analytical plan addressing fuel analysis, recharacterization of boiler ash, and ongoing sampling of ash following recharacterization. RSE also violated Department rules concerning the *Beneficial Use of Solid Wastes* and its Department-issued fuel substitution license by handling and storing ash outdoors such that it was exposed to weather and capable of creating dust and violated provisions of its Department-issued air emission license by exceeding license requirements for opacity. To resolve the violations, RSE paid \$70,421.00 as a civil monetary penalty.

*Asbestos:*

**Hallowell House, LLC, Hallowell, Maine.** Hallowell House, LLC ("Hallowell House") violated provisions of Maine's *Asbestos* laws and the Department's *Asbestos Management Regulations* while conducting an asbestos abatement activity at 101-103 Second Street in Hallowell. Hallowell House failed to notify the Department in writing of an intention to engage in an asbestos abatement activity, failed to use licensed or certified asbestos professionals, failed to comply with pre-abatement requirements prior to engaging in an asbestos abatement activity, and failed to comply with applicable work practice requirements. Upon learning of the presence of asbestos containing materials at the property, Hallowell House immediately retained the services of a licensed asbestos



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abatement contractor to conduct clean-up activities and removed all remaining asbestos containing materials in the building identified in an asbestos building renovation impact survey. To resolve the violations, Hallowell House paid \$4,500.00 as a civil monetary penalty.

*Land:*

**David Abbott, Strong, Maine.** David Abbott ("Abbott") violated provisions of Maine's *Natural Resources Protection Act* and *Erosion and Sedimentation and Control Law*. Abbott placed fill in a stream without first obtaining a permit from the Department, disturbed soil adjacent to a stream without first obtaining a permit from the Department, and displaced soil without taking measures to prevent the unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource. Specifically, Abbott diverted approximately 150 feet of stream into a newly constructed channel, placed fill in the old stream bed, and placed fill within seventy-five feet of the new stream bed. At the time of a Department inspection of the subject property, no erosion controls were installed at the site. Following Department involvement, Abbott submitted a restoration plan to the Department to restore the original stream channel, and the plan was approved by the Department. In addition, Abbott submitted an after-the-fact permit by rule notification, which was approved by the Department, to keep some of the fill placed adjacent to the stream. To resolve the violations, Abbott agreed to implement the approved restoration plan and will pay \$2,200.00 as a civil monetary penalty.

**W/S Ellsworth Properties LLC, W/S Acadia Crossing LLC, and Sargent Corporation, Ellsworth, Maine.** W/S Ellsworth Properties LLC, ("W/S Ellsworth"), W/S Acadia Crossing LLC ("W/S Acadia"), and Sargent Corporation ("Sargent") violated provisions of Maine's *Natural Resource Protection Act* and *Site Location of Development Law* and Department licensing order issued thereunder. W/S Ellsworth, W/S Acadia, and Sargent altered or caused to be altered a freshwater wetland without first obtaining a permit from the Department. Specifically, a Department inspection revealed that woody vegetation had been removed from two wetlands that were not proposed to be altered. In a third wetland, woody vegetation which was also to be undisturbed was removed in the process of clearing for a power line. Department records revealed that in total, approximately 30,000 square feet of wetland was altered that was not part of the alteration permitted in the project's licensing order. Following Department involvement, W/S Ellsworth and W/S Acadia submitted a plan to restore two of the wetlands, and the plan was approved by the Department. An after-the-fact application for wetland clearing associated with the power line was submitted to the Department. To resolve the violations, W/S Ellsworth and W/S Acadia agreed to implement the restoration plan submitted for two wetlands. W/S Ellsworth and W/S Acadia further agreed to immediately comply with all terms and conditions of the after-the-fact permit concerning the power line crossing if the after-the-fact permit is approved, or, in the event that the after-the-fact application is denied by the Department or issued with conditions not acceptable to W/S Ellsworth and W/S Acadia, submit a restoration plan to restore the altered wetland. Sargent Corporation paid \$10,290.00 as a civil monetary penalty.

**Madelyn Christopher and Ralph Warner, Pownal, Maine.** Madelyn Christopher ("Christopher") and Ralph Warner ("Warner") violated provisions of Maine's *Natural Resources Protection Act* and *Erosion and Sedimentation Control Law*. Christopher and Warner drained or otherwise dewatered a freshwater wetland without first obtaining a permit from the Department, displaced soil and vegetation within a freshwater wetland without first obtaining a permit from the Department, and displaced soil without taking measures to prevent the unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource. Specifically, approximately



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3,865 square feet of wetland had been altered to direct water off the subject property. At the time of a Department inspection of the subject property, no erosion controls were installed at the site. Following Department involvement, Christopher and Warner submitted a restoration plan to the Department to correct the wetland violation, and the plan was approved by the Department. To resolve the violations, Christopher and Warner agreed to implement the approved restoration plan, and paid \$1,428.00 as a civil monetary penalty.

**Larry Rowell, Hartland, Maine.** Larry Rowell ("Rowell") violated provisions of Maine's *Natural Resources Protection Act* by filling, bulldozing, and constructing a permanent structure adjacent to a great pond without first obtaining a permit from the Department. Specifically, Rowell cleared vegetation, removed stumps, graded soils, and planted a lawn within seventy-five feet of the normal high water line of Great Moose Lake. Rowell also constructed a stone patio and fire pit in an area measuring approximately 4,800 square feet adjacent to the lake and constructed a stone wall approximately three feet high by three hundred feet long at the normal high water line of Great Moose Lake. Following Department involvement, Rowell submitted a restoration plan to remove the stone wall and completely restore the vegetated buffer adjacent to Great Moose Pond, and the restoration plan was approved by the Department. To resolve the violations, Rowell agreed to implement the restoration plan and paid \$1,575.00 as a civil monetary penalty.

**New Heritage Builders, Inc., Old Orchard Beach, Maine.** New Heritage Builders, Inc. ("New Heritage") violated provisions of Maine's *Stormwater Management Law* by failing to construct required stormwater management systems as approved in a Department-issued licensing order for the construction of an apartment complex. Following Department involvement, New Heritage constructed stormwater controls to the Department's satisfaction. To resolve the violation, New Heritage will pay \$9,200.00 as a civil monetary penalty.

**Kempton Tobey & Son, Inc., China, Maine.** Kempton Tobey & Son, Inc. ("Tobey") violated provisions of Maine's *Site Location of Development Law* and a Department licensing order to operate a gravel pit issued thereunder. Tobey varied from plans, proposals, and supporting documents contained in the application upon which the Department licensing order was based without first obtaining Department approval. Specifically, a quarry operation approximately 0.1 acres in size had been developed on the subject parcel. Tobey had not received Department approval for this activity. To resolve the violation, Tobey agreed to cease all quarrying activity unless and until a permit amendment is applied for and granted by the Department, and paid \$2,432.00 as a civil monetary penalty.